

PRIVATE RULING 8804010

"This document may not be used or cited as precedent. Section 6110(J)(3) of the Internal Revenue Code."

SECTION 0106

Contributions by Employer to Accident and Health Plans (Excluded v. Not Excluded)

0106.00-00

DATE: October 26, 1987

REFER REPLY TO: CC:IND:Br.4-TR-31-03515-87

Dear * * *

This is in reply to the letter dated June 20, 1987, submitted on behalf of Company, requesting a ruling under section 106(a) of the Internal Revenue Code.

The information submitted indicates that the company maintains a cafeteria plan for the benefit of its employees. One benefit provided under the plan is payment of premiums on an individual health insurance policy. The policy pays benefits for total disability, hospital confinement and hospital intensive care confinement.

The company is considering offering in conjunction with its health insurance policy return of premium rider which would allow participating employees a return of premiums paid, less benefits received, upon the continuation of participation under the policy for a certain period of time. The provision under consideration would state that at the end of each twenty year period, beginning upon the execution of the policy rider, the Company would return all premiums paid by the employee for the policy and the rider during that twenty year period. The premiums would not accrue interest during the twenty-year period, and would be returned to the employee minus the total amount of benefits received by the employee under the policy during the period.

A ruling is requested that the payment of additional premiums for the return of premium rider be excludable under section 106(a) of the Code.

Section 106(a) of the Code provides that gross income of an employee does not include employer-provided coverage under an accident or health plan.

Section 1.106-1 of the Income Tax Regulations provides, in part, that the gross income of an employee does not include contributions which his employer makes to an accident or health plan for compensation (through insurance or otherwise) to the employee for personal injuries or sickness incurred by him, his spouse, or his dependents as defined in section 152 of the Code. The employer may contribute to an accident or health plan either by paying the premium (or a portion of the premium) on a policy of accident or health insurance covering one or more of his employees, or by contributing to a separate trust or fund (including a fund referred to in section 105(e) of the Code) which provides accident or health benefits directly or through insurance to one or more of his employees. However, if such insurance policy, trust, or fund provides other benefits in addition to accident or health benefits, section 106 of the Code applies only to the portion of the employer's contribution which is allocable to accident or health benefits.

Based solely upon the facts submitted we conclude that the return of premium rider is a benefit in addition to accident or health benefits. Accordingly, the payment of premiums for the return of premium rider are not excludable under section 106(a) of the Code.

Except as specifically set forth above, no opinion is expressed as to the federal tax consequences of the above described facts under any other provision of the Code. In particular, no opinion is expressed or implied on whether the payment of premiums under the individual health insurance policy are excludable under section 106 of the Code or whether the cafeteria plan is the type of plan that qualifies under section 125 of the Code.

This ruling is directed only to the taxpayer who requested it. Section 6110(j)(3) of the Code provides that it may not be used or cited as precedent.

Sincerely yours,

Arthur H. Ernst

Chief, Branch 4

Individual Tax Division

Enclosures:

Copy of this letter

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